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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:	)	AMENDMENT AND RESPONSE TO PAPER NO. 7
Chen	)	MAILED 03/31/03
	)	
Serial No.: 09/870,115	)	
	)	
Filing Date: May 30, 2001	)	Date Mailed: <u>June 11, 2003</u>
	)	
Attorney Docket No.: CLX-701	)	
(470.156)	)	
	)	
Title: HEAT-REGULATING	)	
CONTAINER FOR	)	
ATMOSPHERE CONDITIONING)	)	
SYSTEM	)	Examiner: CHORBAJI, Monzer, R.
	)	Art Unit: 1744
	)	

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Commissioner of Patents and Trademarks  
Washington, D.C. 20231

AMENDMENT AND RESPONSE TO PAPER NO. 7 MAILED 03/31/2003

Dear Sir,

Applicant is in receipt of Paper No. 7 mailed 03/31/2003. Thank you for your continued expedient examination of the present Application.

STATEMENT OF CLAIMS STATUS

Claims 1 and 3-17 are pending.

Claims 1 and 3-17 are rejected.

Amendment and Response to Paper No. 7 Mailed 03/31/2003

Title: HEAT-REGULATING CONTAINER FOR ATMOSPHERE  
CONDITIONING SYSTEM

Filing Date: May 30, 2001

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Page 1 of 13

Serial No.: 09/870,115  
Attorney Docket No.: CLX-701  
(470.156)

## SUMMARY OF RESPONSE

### *Detailed Action*

#### **Drawings**

1. Examiner States: " The corrected or substitute drawings were received on 01/06/2003. These drawings are 3-4, 4A, 5A and 5B. The drawings are accepted."

#### **Claim Rejections - 35 USC § 103**

2. Examiner States: " The factual inquires set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows: 1) Determining the scope and contents of the prior art. 2) Ascertaining the differences between the prior art and the claims at issue. 3) Resolving the level of ordinary skill in the pertinent art. 4) Considering objective evidence present in the application indicating obviousness or nonobviousness."
3. Examiner States: " claims 1 and 3-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flashinski et al (U.S.P.N. 6,031,967) in view of Barnhart (U.S.P.N. 6,413,476). With respect to claims 1 and 10, Flashinski teaches a system (10) and a heat-regulating container (14) for dispensing insecticides (26) into an atmosphere including the following : a heat-regulating container (14) having reservoir with insecticide (22), a lower surface (32) having integral leg support structure (30), a heating device (10) with a heating surface (12) at elevated temperature adapted to receive the heat-regulating container (14) and a plurality of integrally formed leg structure extending from the lower surface of the container (30A,31A and col. 4, lines 20-22). Flashinski heating means is through convection heating and fails to disclose that the integral leg support structure is indirect contact with the hot surface in order to regulate the temperature of the volatile material in the container. Barnhart discloses a container (3) whose bottom surface is in direct contact with the hot surface (6) in order to regulate the temperature of the volatile material (102) in the container. It would have been obvious to one having ordinary skill in the art to substitute the know convective heating means of Flashinski with the known

conductive heating means of Barnhart since such a substitution makes the heating surface closer to the insecticide material for faster dispensing. With respect to claims 3-4 and 17, Flashinski teaches the following: reservoir (22) contains a porous solid substrate and the volatile material is impregnated within the substrate (col. 1, lines 65-67 and col. 2, lines 1-2), volatile material is in a gel form (col.3, line 52) and the container (22) includes a volatile insecticide material (26). With respect to claims 5-6 and 8-9, Flashinski discloses the following: container is made of metal (20 and col. 3, lines 34-36), plurality of integral leg support structures (20A and 31A), plurality of integral leg support structures are provided in a pattern over an entire lower surface of the container (30) and handle means (35). With respect to claim 7, Flashinski does not teach of a support structure in a sig-zag pattern, however such a construction for supporting the container is a matter of design choice that is well within the scope of the artisan. With respect to claims 11-12, Flashinski teaches a container with two integrally formed leg structures such that the height of the legs must intrinsically falls within such a range. With respect to claims 13-16, Flashinski teaches the following: a closure means for retaining the volatile material in the reservoir (28), the closure means includes an impermeable film (col.21, line 65) and the closure means includes a permeable membrane (col. 2, line 65).

4. Examiner States: " Claims 1 and 3-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flashinski et al (U.S.P.N. 6,031,967) in view of Encyclopedia Britannica Online. With respect to claims 1 and 10, Flashinski teaches a system (10) and a heat-regulating container (14) for dispensing insecticides (26) into an atmosphere including the following?: a heat-regulating container (14) having reservoir with insecticide (22), a lower surface (32) having integral leg support structure (30), heating device(10) with a heating surface(12) at elevated temperature adapted a receive the heat-regulating container (14) and a plurality of integrally formed leg structure extending from the lower surface of the container (30A, 31A and col.4,lines 20-22). Flashinski heating means is through convection heating and fails to disclose that the integral leg support structure is in direct contact (conduction heating) with the hot surface in order to regulate the temperature of the volatile material in the container. The Encyclopedia Britannica discloses three known means of heating an object. It would have been obvious

to one having ordinary skill in the art to substitute the known convective heating means of Flashinski with the known conductive heating means of Encyclopedia Britannica since such a substitution result in moving the heat from one object directly to another object (Encyclopedia Britannica Online, line 13). With respect to claims 3-4 and 17, Flashinski teaches the following: reservoir (22) contains a porous solid substrate and the volatile material is impregnated within the substrate (col.1, lines 65-67 and col.2, lines 1-2), volatile material is in a gel form (col.3, line 52) and the container (22) includes a volatile insecticide material(26). With respect to claims 5-6 and 8-9, Flashinski discloses the following: container is made of metal (20 and col.3, lines 34-36), plurality if integral keg support structures (30A and 31A), plurality of integral leg support structures are provided in a pattern over an entire lower surface of the container (30) and the handle means (35). With respect to claims 11-12, Flashinski teaches a container with two integrally formed leg structures such that the height of the legs must intrinsically falls within such a range. With respect to claims 13-16, Flashinski teaches the following: a closure means for retaining the volatile material in the reservoir (28), the closure means includes an impermeable film (co.3, lines 4-5), the closure means includes a semi permeable membrane (col.21, line 65) and the closure means includes a permeable membrane (col.2, line 65)."

### **Response to Arguments**

5. Examiner states: " Applicant's arguments with respect to claims 1 and 3-17 have been considered but are moot in view of the new ground(s) of rejection. The Flashinski reference uses convective heating means to dispense insecticide. The Barnhart reference is used to show that conductive heating means is known in the art of dispensing. The Encyclopedia Britannica Online reference is used to show that the three methods of heating (conduction, convection, and radiation) are known means to generate volatile materials. Thus, Two Methods in heating volatile materials is known such that substituting one method for other along with inherent structural changes is a matter of choice of the artisan."

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